

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of  
Giuseppe Maio

Serial No. 10/792,100                      Group Art Unit: 1616  
Filed: March 3, 2004      Examiner: Landau, Sharmila Gollamudi

For: COSMETIC COMPOSITION CONTAINING POLYISOPRENE

DECLARATION UNDER 37 CFR § 1.132

Honorable Commissioner  
of Patent and Trademarks  
Washington, D.C. 20231

Sir:

I, Giuseppe Maio, a citizen of Italy, hereby declare and state:

1. I attended a Technical School (I.T.I.S.) in Salerno (Italy) with specialisation in Chemistry, where I obtained a diploma in 1965. From 1966 to 1967 I had a job in the food analysis department of Cirio S.p.A. in Naples and from 1967 to 1986 I worked in the cosmetic field in some cosmetic companies in Milan, particularly as R&D Manager for Cosmetic Make-up in International Chemical Cosmetic & Company S.p.A. in Milan from 1980 to 1986. Since 1986 to date I have been Exploratory Research Manager in the Assignee company Intercos S.p.A. I am inventor and applicant in several US patents such as US 6,372,232, US 6,660,253, US 6,953,543.

2. I am the co-inventor of the above referenced patent application and I am familiar with the references applied in the Office Action mailed July 7, 2009.

3. I states that the cosmetic composition as claimed in the captioned application is a substantially anhydrous composition.

Indeed, in the preparation of all the compositions described in the examples of the above application, water is not present neither as such nor in the solvents employed in the preparation thereof.

As far as alcohol is concerned, only Examples 1, 2, 9 and 10 of the present application contain it.

In such Examples, I have used, as alcohol, ethanol with a degree of purity between 96% and 99,9% and thus the amount of water in such ethanol was between 0,1 and 4% only.

Furthermore, in such Examples 1, 2, 9 and 10, the amount of alcohol employed was very small too, i.e. 0.80% by weight, 0.50% by weight, 0,80% by weight and 0,80% by weight, respectively.

Therefore, a skilled person in the art, by reading the following percentages by weight of the components of my cosmetic compositions, would certainly asses that such compositions containing alcohol as described in Examples 1, 2, 9 and 10 are substantially anhydrous.

On the contrary, I have tested that the presence of water in an amount of at least 5% by weight in the cosmetic compositions of my invention would be detrimental because it would lead to an unstable product.

Indeed, the above tested compositions containing at least 5% of water appeared to be not homogeneous and showed a streaked aspect with colour separation what is to be avoided in cosmetic products of the type claimed in my invention, i.e. cosmetic products for make-up of face, lips and eyelashes.

4. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and/or imprisonment under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2.10.09

(date)

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(signature)